



State of Connecticut

## **DIVISION OF PUBLIC DEFENDER SERVICES**

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### **Testimony of**

**Deborah Del Prete Sullivan, Legal Counsel/Executive Assistant Public Defender**

### **Raised Bill No. 6366 An Act Concerning the Penalty for Using a Cellular Telephone While Operating a Motor Vehicle Public Hearing - Judiciary Committee - March 18, 2011**

The Office of Chief Public Defender opposes passage of *Raised Bill No. 6366, An Act Concerning the Penalty for Using a Cellular Telephone While Operating a Motor Vehicle*. This bill enhances the penalty for a second or subsequent violation of C.G.S. §14-296aa. This office is opposed to a sentence of incarceration up to 3 months for anyone, including persons under the age of 18, if he/she has violated this statute by using either a cell phone or other mobile device. This office is not aware of any other state, including Connecticut's sister states, which provide for a period of incarceration for *using a cell phone* without a hands free device. Secondly, in regard for *texting* violations, only Alaska and Utah provide for a sentence of incarceration. (See *Distracted Driving: Penalties for Hand-Held and Text Messaging Violations from the National Conference of State Legislatures - 2010*)

In addition, this Office is concerned that by enhancing the penalty, additional financial resources would be required in order to provide representation to indigent persons accused of committing a second or subsequent violation of the statute. The Judicial Department reported that between "January 1, 2007 and September 30, 2009, there were **103,294** court cases involving violations of various provisions of this law. (The data does not distinguish between mobile electronic device and cell phone violations)". (See, *OLR Report 2010-R-0094, Procedural Outcome of Cell Phone Use Violations, February 22, 2010*). Once a person can lose his/her liberty, he/she would have the right to court appointed counsel, if indigent, through the Division of Public Defender Services. The report does not appear to distinguish between 1<sup>st</sup> and subsequent violations in the numbers reported by Judicial. However, even if one were to make a conservative assumption that **10% (just over 10,000)** of the **103,294** court cases were second offenders, such would impact upon the caseloads of the Division *which already exceed over 92,000*. Therefore, this Office respectfully requests that this bill not be favorably reported out of Committee.